ELECTION TRIBUNAL.

DISTRICT JUDGE'S COURT BUILDING, SHIMOGA.

Notification No. I of 1952-53.

In pursuance of the provision of sub-section (1) of Section 90 of the Representation of the People Act, 1951 (XLIII of 1951), the following Election petition presented under Section 81 thereof is published for information.

B. R. RAMALINGAIAH,
Chairman.

Dated 17th September 1952.

TO THE ELECTION COMMISSION OF INDIA, NEW DELHI

Election Petition No. —1952.

(relating to the election held on 4th January 1952 to the Mysore Legislative Assembly in the Tarikere Constituency).

PETITIONER.

T. C. Basappa, B.A., son of B. Chandappa, Timber Merchant, Tarikere.

Versus.

RESPONDENTS.

1. T. Nagappa, son of M. Thimmiah, Timber Merchant and Landlord, Tarikere.
2. Chandrasekharappa, Advocate, Tarikere.
3. T. V. Narasingappa, son of Venkatarayappa, Landlord, Tarikere.
4. Nadig Phaniappa, Landlord, Maruthi Street, Tarikere,
5. B. Maheswarappa, son of Nagappa. Chairman, Taluk Development Committee, and Landlord, Anuvanahalli, Shivane Hobli, Tarikere Taluk.
6. H. M. Lingamariappa, Landlord, Hanusaghatta, Amruthapur Hobli, Tarikere Taluk.
7. D. H. Haralappa, son of Haralappa, Landlord and President, Town Municipal Council, Tarikere.
8. T. H. Thimmiah, Landlord, son of Hanumanthiah, Tarikere.
9. G. H. Hanumiah, son of Hanumiah, Landlord, Tarikere.

Under Sections 80, 81 and 83 of the Representation of the People Act, 1951, the Petitioner abovenamed states as follows :—

(1) The Petitioner herein was a duly nominated candidate at the Election detailed in the cause title and is entitled to present this petition to question the election of T. Nagappa, the first respondent herein. The declaration of his election was published in the Mysore Gazette Extraordinary on 11th February 1952. The lodging of his return of his Election Expenses and Declaration was published in another Mysore Gazette Extraordinary dated 31st March 1952.

(2) Respondents 2 to 4 herein were the other candidates who contested at the said Election, along with the petitioner and the first respondent. Respondents 5 to 9, though naminated for Election, withdrew their candidature. By way of abundant caution they are also impleaded as party respondents to this petition.

(3) At the counting of votes which took place on 26th January 1952 the petitioner was declared to have got 8,059 votes as against 8,093 votes which the first respondent was declared to have got. The 2nd, 3rd and the 4th respondents were declared to have got 6,239, 1,644 and 1,142, respectively.

(4) The petitioner avers that though it had been stated and published by the concerned election authorities, as required, that the polling at the said election would commence at 8 A.M. the polling did not actually commence until about half an hour later at Booth No. 1 for Ajjampur Town fixed at Ajjampur Municipal Office which was one of the Polling Centres for the Constituency for which the election took place (it may be mentioned here that the report of the Presiding Polling Officer, as the Petitioner understands, specifies that the work of polling had actually to commence at 8-25 A.M.) On account of the infringement of the rules relating to the time of commencement of the poll many voters, who would have voted for the petitioner had to return as they had other pressing work to attend to which brooked of no delay.

(5) Though the rules are peremptory that the seals on the ballot boxes shall be secure and intact, in particular at the said polling booth the seals were not intact. Though the Presiding Polling Officer was at pains to explain how the seals came to be not secure and intact the petitioner submits that in so far as there has been a violation of the fundamental requirements of the Election Law the declaration as the successful candidate of the first respondent has been vitiated.

(6) That in some polling booths, in particular in the Polling Booth No. 6 of Tarikere Kasaba and in Polling Booth No. 18 Koratikere, the number of votes actually polled were found to be in excess of the number of ballot papers issued. This material irregularity has also vitiated the Election.

(7) The petitioner also charges that several votes have been counted as valid in favour of the respondent which really ought not to have been so counted as either some of them were impersonated votes or votes not of those of the actual voters found on the list, as in some cases the voters in the list were dead and in some other cases the real voters did not turn up. The petitioner not having got copies of the voters list is handicapped in furnishing details at this stage. (He however submits that on a recount this submission made for the petitioner will find support).

(8) The violation of the Election Laws apart, the first respondent by himself and through his Agents committed major corrupt practices of the following among other kinds :—

(*a*) He hired and procured a Motor Bus which was a Service Bus running between Tarikere and Hiriyur, belonging to one Ahamadjan. This vehicle was not used for doing its usual trip on the line but did many trips on the election day for bringing voters to vote for the first respondent. The particulars relating to this kind of corrupt practices are set out in para 1 in the list of particulars annexed to the petition.

(*b*) That the said respondent took the assistance of a number of Government Servants, in particular that of his son-in-law Sri S. Duggappa and Patel C. Parameswarappa of Basavapur Village to further the prospects of his election. The particulars of assistance taken from them are set out in para 2 of the list of particulars annexed to this petition.

(c) That there was a systematic appeal to the electors published through hand-bills of the kind annexed to this petition reproduced from a Kanarese paper not to vote to the petitioner on the ground that the petitioner belonged to a political organisation which was represented to be interfering with Hindu Religion, temples, etc. Particulars of such appeal are given in para 3 of the list of particulars attached to the petition.

The respondent through his Agents influenced several voters to vote for himself and for the petitioner by fanatic appeals, using the name of Manjiah Heggade of Dharmasthala, exploiting the feeling of reverence of several Hindu voters to the said gentlemen and the seat of worship to which he belonged. These appeals were not only by wide publication in the form of hand-bills but also through the extensive use of loud speakers at important gatherings where the voters would congregate. The respondents in getting these hand-bills published incurred disqualification of the membership by reason of the illegal practice in bringing out the hand-bills which do not bear on the face of them the names and addresses of the publishers.

(d) The respondent fed several voters and extracted from them in token of gratitude that they would vote for him and thereby committed an illegal practice which has materially affected the result of the election but at all events disqualified him from membership. Particulars relating to this are furnished in para 4 of the list of particulars attached.

(e) The respondent by himself and through his agents systematically disturbed election meetings in particular a meeting arranged at Ajjampur. Particulars relating to these are set out in para 5 of the list hereto annexed. The petitioner submits that because of the fear that the respondent brought to bear on the voters by illegal practices of the kind secured many voters who would otherwise have voted for the petitioner.

(f) The respondent by himself and through his agents intimidated the petitioner's workers by threat of violence, the particulars whereof are set out in the list of particulars herewith annexed (Para 6.)

(g) The return of Election Expenses lodged by the first respondent has been false in material particulars as specified in para 7 of the list of particulars annexed to the petition and either on the ground of corrupt practice or on the ground of disqualification the respondent's election has been vitiated.

9. That if for any reason the petitioner cannot satisfy that the corrupt practices referred to above were committed by the first respondent or his agents or by several persons with his connivance at all events the election of the first respondent has been procured and induced by the said corrupt practices with the result that the election has been materially affected. That but for these corrupt practices the petitioner would have got a majority of votes.

10. That the counting of votes was done in such a manner (not in accordance with the rules) that it was impossible either for the petitioner or his agents to know and note the particulars of improperly accepted votes for the first respondent. Wherefore a general scrutiny of re-count, if ordered, will reveal that the petitioner will have got more valid votes in his favour than the first respondent.

11. The petitioner submits that but for the first respondent obtaining votes on account of these corrupt and illegal practices the petitioner would have obtained the majority of the valid votes.

12. The petitioner has deposited the necessary sum of Rs. 1,000 as security and has filed this petition within time allowed by law. He prays that the election of the first respondent be declared void and further that he the petitioner be declared to be duly elected, candidate at the said election.

(Sd.) S. RANGA RAJ,
Advocate for Petitioner.

(Sd.) T. C. BASAPPA,
Petitioner.

I, the Petitioner above named, do hereby solemnly affirm and declare that what is stated above is true to the best of my knowledge, belief and information.

Bangalore,
Dated 10th April 1952.

(Sd.) T. C. BASAPPA,
Petitioner

ANNEXURE.

List of Particulars of corrupt and/or illegal practices.

1. A service bus which the Petitioner believes to belong to one Ahamed Jan of Gowrapur named as Haji Imam Hussain Motor Service which was a Service Bus running between Tarikere and Hiriyur was hired by the first respondent for the purpose of conveying his voters at the said election from Gowrapur to Sollapur polling booth. In order to conceal this hiring it was made to appear by the Licensee of the Bus making an application to the District Magistrate for a permit for two trips for the ostensible purpose of carrying his family members to the polling booth. The Licensee's family members were about *eight* in number and this service bus was of the seating capacity of about 36 persons. This bus did number of trips making it appear as far as the Police Books are concerned that two trips had been done to Sollapur. On the occasion of even these two trips the bus came with full load. On other occasions which do not find an entry in the Police Books the voters used to be lodged at several distances away from the polling station. The Bus had the placard of the respondent prominently posted up.

2. Sri S. Duggappa is the son-in-law of the first respondent. He took leave from the Bhadravathi Iron and Steel Works wherein he is employed, and posted himself at Tigada Centre which was the polling booth for Kemmangundi voters and others in the vicinity. He used his official influence over several of the voters who were dependant on the employment of the Iron and Steel Works. Through these voters he was able to exercise influence on the neighbouring villagers. Having taken leave from the 1st to 5th January 1952 he went on the 3rd evening to Kemmangundi and halted there. He continued to stay on the 4th so that he might ensure the voters whom he had unduly influenced as aforesaid to vote for his father-in-law. Indeed he was found to be openly canvassing for the first respondent.

Patel C. Parameswarappa accompanied the first respondent and actively canvassed for votes in several villages to wit Baggavalli, Channapur among others. On the polling day he openly canvassed at Baggavalli Polling Centre for the first respondent. He went and sat in the car together with the first respondent in the procession held at Tarikere on 27th January 1952 held to commemorate the success of the first respondent. He gave a dinner at Chennapur to the first respondent wherein he had invited the voters whom he had successfully canvassed in support of the first respondent.

3. The hand-bill which is an annexure to the petition was one of the thousands of the hand-bills which the first respondent got circulated and presumably got printed with the connivance of agents. These hand-bills were circulated house to house in several of the villages and in Lakkavalli proper. The sentiments expressed in the hand-bills were also published by means of loud-speakers fitted on to the Propaganda Van employed by the first respondent. The hand-bills were distributed and propaganda was done during the election period in December 1951 and in January 1952.

4. On 28th December 1951 at Obinaholalu in Shivani Hobli the petitioner arranged for a grand dinner party in his friend's house and promises were taken after the feeding from several of the voters. On 2nd January 1952 in Menasinakai Hosahalli in his friend's house the first respondent gave another dinner party where also similar promises were extracted from the voters.

5. On 20th December 1951 the President of the Mysore Pradesh Congress, to which organisation the petitioner belongs, was to address a meeting of the voters at Ajjampur. The first respondent got 2 of his vans fitted with loud speakers and stopped at close vicinity of the meeting and began systematically to disturb the meeting to prevent the lecturer from addressing the meeting. The President had to leave the meeting without addressing and by this means the first respondent created an atmosphere favourable to himself and unfavourable to the petitioner.

6. Between 14th and 19th December 1951 the respondent through his agents threatened several of the Congress workers, to wit Sri S. Y. Naganna Setty, Krishnaji Rao, Siddappa, etc., that they would inflict injury on their person if they took part in working for the petitioner.

7. The first respondent commenced his canvassing from 1st November 1951 by touring in the constituency village after village. He has not shown the petrol expenses for these canvassing tours. The petrol expenses and the car expenses, etc., would easily swell to considerable figure. The first respondent used his friend Sri K. V. Sathyanarayana Setty's car and not only was he using his car but also drawing petrol in his name. The petrol bill which appears in the name of Sri K. V. Sathyanarayana Setty is about Rs. 636 in the Petrol Bunk of Sri K. Venkataswamy. Similarly he has drawn petrol in other's name, *i.e.*, entered in the name of Sri C. Parameswarappa at Birur. These expenses also are not shown in the return of expenses. The first respondent had at least *seven* vans working for him apart from the two vans bearing numbers 587 and 3820, belonging to him. He has not shown the hiring charges in respect of these vans. These vans bear the numbers MY 8894 Z; MY 9692 Z; MY 3963 Z; MY 9073 Z; MY 6525 Z; MY 6527 Z; MY 3537 Z; The first respondent has also not shown the dinner expenses and the expenses incurred in the hotel. All these expenses he has omitted would easily exceed the sanctioned limit of Rs. 5,000.

(Sd.) S. RANGA RAJ,
Advocate for Petitioner.

(Sd.) T. C. BASAPPA,
Petitioner.

I, the petitioner abovenamed, do hereby solemnly affirm and state that what is stated above is true to the best of my knowledge, belief and information.

Bangalore,
Dated 10th April 1952.

(Sd.) T. C. BASAPPA,
Petitioner.

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